IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 15765 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MAYURSINH DUDABHAI BARAD & 4 - Petitioners
Versus
STATE OF GUJARAT & 3 - Respondents

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Appearance :
MR PS CHAMPANERI for Petitioners : 1 - 5.
MR KETAN DWIVEDI, LD. AGP for Respondents : 1 - 2.
MR RA MISHRA for Respondent(s) : 3 - 4.

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CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

Date : 08/08/2007

ORAL JUDGMENT

Heard learned counsels for the parties.

1. The petitioners have preferred this petition under Article 226 of the Constitution of India challenging the action of respondents no.3 & 4 in holding interview for the purpose of selection to the post of Vidya Sahayak between 8/12/2004 and 10/12/2004, and also challenged the decision of the respondent no.4 dated 3/11/2004 being illegal, unjust, arbitrary, invalid and in violation of principle of natural justice. It is the say of the petitioners that they were holding the requisite qualification and they belong to SEBC community. The petitioners applied for the post of Vidya Sahayak in response to the advertisement dated 9/7/2004. Admittedly this advertisement was for filling post of Vidya Sahayak numbering 644. The petitioners were fulfilling the qualification criteria mentioned in the advertisement. The list was prepared and yet they were not appointed and when their turn came up for appointment, instead of appointing them, again the respondents released another advertisement and therefore being aggrieved by this action of the respondents the present petition is filed.

2. Respondent no.4 District Primary Education Officer has filed an affidavit wherein it is clearly stated that the advertisement was for filling post of Vidya Sahayak numbering 644. The break up of these vacancies have been given in

the affidavit in reply. The petitioners say that there were about 800 and odd posts vacant is controverted. It is contended that the remaining posts which were vacant could not have been filled in by the public advertisement. It was not mentioned about the same in the advertisement dated 9/7/2004.

3. Shri. Mishra, learned counsel appearing for the respondent has stated at the Bar that the petitioners case could be considered as & when filling of remaining vacancies out of 644 posts arise. This statement made by Shri. Mishra deserves to be taken into consideration in as much as it is born out from submission of Shri. Devang Bhatt for the petitioners that out of petitioners, petitioner No.1 Mayursinh Dudabhai Barad, petitioner No.2 Mori Mansinh Sidibhai and petitioner no.5 Zankat Manjulaben Govindbhai have been appointed. This petition therefore deserves to be disposed of in the interest pf justice with the following directions.

4. The respondents are hereby directed to consider the case of rest of the petitioners on the same basis on which the case of petitioners no. 1, 2 and 5 were considered, in accordance with law. If the remaining petitioners are found to be eligible for getting the same treatment as it is given to the petitioners no. 1, 2 and 5, then their case be considered accordingly. With this

direction this petition is disposed of. Rule is discharged. Interim relief if any granted earlier shall stand vacated. No order as to costs.

[S.R. BRAHMBHATT, J]

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